



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

## (1) Verified Sixth and Final Account and (2) Report of Conservator of the Person and Estate of Conservatee and (3) Petition for Discharge of Conservator on Final Account (Prob. C. 2620)

DOD: 4-19-04		<b>STEPHEN RONALD CLOUD</b> , brother and Conservator of the Person and Estate, is Petitioner. Mr. Cloud was originally appointed on 5-14-92 as a Co-Conservator with his father. After his father's death, he continued as sole Successor Conservator.  The Fifth Account was settled 12-18-02.  <b>Amended Sixth Account period:</b> 6-30-02 through 6-29-11  Accounting: \$7,061,538.36 Beginning POH: \$2,578,039.04 Ending POH: \$6,723,119.54 (\$1,961,471.54 is cash) (6,723,119.54 less \$1,497,115.20 in liabilities = \$5,226,004.34)  Conservator: Waives fee  <b>Petitioner prays for an order:</b> 1. Approving, allowing, and settling the Sixth and Final Account; 2. Authorizing distribution to the estate of the remaining property in Conservator's possession; and 3. Discharge on the filing of proper receipts  <b>SEE PAGE 2 (re additional declarations)</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b> <u>Note:</u> Page 3 of this calendar is the related estate file (status for closure). The estate is dependent on this conservatorship account and distribution to the personal representative.  <u>Background:</u> The court previously requested clarification regarding certain unauthorized distributions and liabilities described in the accounting.  The conservator had distributed funds as CDs came due directly to certain trusts that are beneficiaries of the decedent's estate. Attorney Perkins' declaration filed 5-25-11 suggested that the appropriate resolution would be reversal of the distribution with interest, and that surcharge is not necessary. <u>Attorney Perkins' declaration filed 6-30-11 reflects that the unauthorized distributions have been repaid to the conservatorship estate with interest.</u>  Conservator's declaration filed 5-2-11 explains the liabilities: In order to pay estate taxes owed by the decedent's estate, the conservatorship estate borrowed \$516,849.00 from a separate trust (the Jasmine Cloud Administrative Trust). Therefore, there is a note payable to the Jasmine Cloud Administrative Trust. Conservator also states that he advanced \$980,406.20 to the conservatorship estate from his personal funds to fund the expenses of the conservatorship estate while the conservatee was alive, and for expenses associated with her death. <u>Examiner notes that there is no documentation provided as to these notes or expenses paid.</u>  The description of the note to the conservator in the original account Schedule G states that the note "included \$35,878 for funeral expenses, \$205,000.00 for administration expense, \$39,727 for appraisals, and \$5,431 for taxes." <u>However, no documentation (itemization or receipts) is provided.</u>  <b>SEE PAGE 2, 3</b>
Cont. from 030811, 050311, 053111, 071211, 091311, 110811, 030811			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
2620(c)	X		
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

<b>Updates:</b>
<b>Contacts:</b> Reviewed 6-14-12
<b>Recommendation:</b>
<b>Reviewed by:</b> skc
<b>File 1 - Cloud</b>

**Declarations filed 5-2-11, 5-25-11, 6-30-11 address prior examiner notes:**

- Regarding distribution to trusts: Petitioner states the sole beneficiaries of the probate estate are two testamentary trusts for the benefit of Ryan John Cloud and Stephen Ronald Cloud, Jr. After Conservatee died, CDs belonging to the conservatorship estate began coming due, and the Conservator transferred the cash to the trusts. Attorney Perkins' declaration filed 6-30-11 reflects that the unauthorized distributions have been repaid to the conservatorship estate with interest.

- Regarding liabilities: Petitioner states that money was loaned to the Conservatee's estate in order to fund the expenses of the estate while Conservatee was alive and pay those expenses associated with her death. Petitioner states it was his practice to fund all cash needs of the conservatorship estate with his own money. Liabilities include a note payable to a separate trust for \$516,849.00 for estate taxes and a note to Petitioner for \$980,406.20.

- Regarding Probate Code §2620(c): Petitioner states that because so much time has passed since closing of the accounts that records are not available.

- Attorney Perkins recommended reversal of the unauthorized distributions without surcharge, and provided revised schedules reflecting the reversal with interest.

**Attorney Joanne Sanoian appeared at the hearing on 7-12-11 for Stephen Cloud, Jr., an Estate Beneficiary.**

**Minute Order 7-12-11**: Ms. Sanoian advises the Court that her client has not received any notice regarding this matter. She further advises that she is going to want to do some kind of forensic accounting. Ms. Sanoian requests a continuance. Matter continued to 9-13-11.

**Minute Order 9-13-11**: Mr. Perkins advises the Court that they are trying to work out Ms. Sanoian's concerns; therefore, they are requesting a continuance. Matter continued to 11-8-11.

**Status Report filed 11-4-11**: Since the hearing on 9-13-11, Attorneys Perkins and Sanoian have been cooperating; however, no resolution has been reached as of yet. The parties anticipate that forensic accountings which are being prepared in other matters will help resolve some or all of the concerns of Stephen Cloud, Jr.

**Minute Order 11-8-11**: Mr. Perkins requests a four month continuance.

**Status Report filed 3-7-12 states** the continuance was made in part to allow attorneys for Stephen Cloud, Jr., and the attorneys for Conservator to continue to work out an agreement that will allow Conservator's petition to move forward. In response to the Examiner's inquiry, the following items are addressed:

- Janet Wright has appeared on behalf of Mrs. Elaine Cloud, spouse of the Conservator. Ms. Wright informed the Court that Mrs. Cloud had filed a petition for legal separation. No further communication has occurred regarding Mrs. Cloud's concerns.
- It is the intent of the Conservator that all notes payable from the Conservatorship to the Jasmine Cloud to the Jasmine Cloud Administrative Trust and to the Conservator be paid in full prior to distribution to the Decedent's estate.
- Joanne Sanoian appeared at the status hearing for Stephen Cloud, Jr., a beneficiary of the Stephen Ronald Cloud, Jr., Irrevocable Trust dated 5-30-1986, which is one of the beneficiaries of the Conservatee's estate. While Ms. Sanoian's client has never made a formal objection to the accounting, she has indicated that her client has some concerns and does not want the Conservatorship Estate to be distributed until those concerns are resolved. As previously indicated to the Court, it is the hope of Mr. Perkins and Ms. Sanoian that forensic accountings that are being prepared in other matters involving the Conservator will resolve the concerns of Ms. Sanoian's client. Mr. Perkins and Ms. Sanoian continue to communicate and believe continuance will be in the best interest of all parties.

**The following issues remain listed**: See Page 3.

Dep't. 303, 9:00 a.m. Thursday, June 21, 2012

1. **The main issues with the accounting as previously presented were: 1) the unauthorized distributions, and 2) the liabilities.** It appears the unauthorized distributions have been addressed and reversed; however, the court may require further clarification regarding the liabilities.

**Conservator's 5-2-11 declaration** provides a brief explanation of the note payable to another trust and the note payable to the conservator for personal funds advanced. The examples included in the description of the note payable to the conservator (funeral expenses, administration expenses, etc.) total \$286,036. The declaration does not explain what the remaining \$694,370.20 was used for, and further, the loan amounts do not appear to be reflected in the receipts schedules, there is no other documentation (receipts for goods and/or services) or itemization, and copies of the notes are not provided.

**The original prayer requests distribution of all remaining property to the decedent's estate, but does not specifically include these liabilities. The revised schedules filed 6-30-11 appear to reduce the property on hand by the amount of the liabilities.**

**If it is Petitioner's intent for the notes to be paid prior to distribution to the decedent's estate, further clarification may be required at this time.**

**If it is Petitioner's intent for the notes payable to become obligations of the decedent's estate, the court may specifically reserve this issue to be addressed further in that case.**

2. **The declaration amending the account period and schedules to reflect actions subsequent to the prior account period is not verified by the fiduciary (Probate Code §1023).**

3. **Need order.** *Petitioner may wish to submit the order for signature after the hearing.*

4. **It appears notice has not been provided to all relatives within the 2<sup>nd</sup> degree pursuant to Probate Code §§ 2621, 1460(b)(6), 1821(b), Cal. Rule of Court 7.51. Need notice of hearing and appropriate notice.**

- Examiner notes that the list of relatives provided in the 1992 petition for conservatorship may be outdated. An updated list and notice is required.

- Examiner notes that the Notice of Hearing filed 2-8-11 (for the 3-8-11 hearing) reflects that notice to the two Estate Beneficiaries (Stephen Cloud, Jr., and Ryan Cloud) was sent "c/o Jeffrey G. Boswell, Esq., Kimble, MacMichael & Upton" but was not sent directly to the beneficiaries.

**Note:** Minute Order 5-31-11 states "Ms. Wright is appearing on behalf of Ms. Cloud." Examiner is unsure if this refers to Ms. Cloud the decedent (former conservatee?) or another related party.

*Status Report filed 3-7-12 states that Janet Wright has appeared on behalf of Mrs. Elaine Cloud, spouse of the Conservator. Ms. Wright informed the Court that Mrs. Cloud had filed a petition for legal separation. No further communication has occurred regarding Mrs. Cloud's concerns.*

**Note:** Examiner notes that when the 5<sup>th</sup> account was settled in 2002, the language ratifying acts and transactions of the conservator was stricken by the judge. The court may require similar revision to this order.

Atty Perkins, Jan T. (for Conservator Stephen Ronald Cloud)  
 Atty Sanoian, Joanne (for Stephen Cloud, Jr., Beneficiary)

Filing of First Account or Petition for Final Distribution and Filing of Inventory and Appraisal

<b>DOD: 04/19/04</b>	<b>STEPHEN RONALD CLOUD</b> was appointed Executor with full IAEA without bond on 8-29-06 and Letters Issued 8-30-06.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Note:</b> Page 1 of this calendar is the related conservatorship final account. This estate is dependent on the conservatorship account and distribution to the personal representative.
	Inventory and appraisal was due 12-29-06.	
	First account or petition for final distribution was due 8-30-07.	Stephen Ronald Cloud is also Conservator of the Estate of Rhonda Jane Cloud in Case # 458379.
<b>Cont. from 042810, 061510, 092110, 111610, 012511, 030811, 050311, 071211, 091311 110811, 030811</b>	<b>Status Report of Stephen Ronald Cloud regarding the Inventory and Appraisal filed 4-19-10</b> states he is also the conservator of the estate of Rhonda Jane Cloud, case no. 0458379. As of the date of the status report the Conservator has not provided Attorney Rindlisbacher with the accounting required nor has the Conservator delivered the Conservatee's estate to Executor. When a final accounting has been prepared and approved by the Court in the Conservatorship, Executor will be in a position to administer the estate of the Decedent.	1. Need Inventory and Appraisal and Petition for distribution.
<b>Aff.Sub.Wit.</b>		<b>Notes:</b>
<b>Verified</b>		<b>Minute Order 11-16-10</b> states attorney Rindlisbacher represents to the court that they are awaiting bank records that were requested several weeks ago with regard to the conservatorship accounting. <u>The court advises that this will be the last continuance with the possibility of sanctions absent extraordinary good cause.</u>
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	<b>Probate Referee Steven Diebert filed a Request for Special Notice on 8-31-11.</b>	
	<b>Minute Order 11-8-11:</b> Mr. Perkins requests a four month continuance.	
	<b>Minute Order 3-8-12:</b> Matter continued to 6-21-12.	
	<i>As of 6-14-12, nothing further has been filed.</i>	
		<b>Status report filed 4-9-10</b> indicated Executor was awaiting distribution from conservatorship estate; however, <u>Examiner notes that the I&amp;A for the probate estate should include assets as of date of death, and may not be contingent on distribution from the conservatorship estate.</u>
		Documents filed in the Conservatorship Estate (0458379) indicate that Mr. Cloud made <u>unauthorized preliminary distributions</u> after the date of death <u>totaling \$1,779,985.14</u> directly from the conservatorship accounts to the probate estate beneficiaries' trust accounts, of which he is the trustee.
		<u>Probate Referee Steven Diebert has filed a Request for Special Notice in this Estate case.</u>
		<b>Updates:</b>
		<b>Contacts:</b> Reviewed 6-14-12
		<b>Recommendation:</b>
		<b>Reviewed by:</b> skc
		<b>File</b> 3 - Cloud